IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 1845 of 2002(T)

PETITIONER:

A. RAJAN, S/O. APPU,
RETIRED TAHSILDAR, ANNAMKKAMPAD,
P.O. EDAPPAL.

BY ADV. SRI.T.RAMPRASAD UNNI

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, REVENUE DEPT.,
THIRUVANANTHAPURAM.

2. THE TAHSILDAR, PONNANI,
MALAPPURAM DIST.

BY GOVERNMENT PLEADER, SRI.V.T.K.MOHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.3145 OF 2002 IN O.P.No. 1845 OF 2002

DISMISSED.

SD/-
26/7/2007. T.R.RAMACHANDRAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE MEMO OF CHARGES ALONG WITH THE STATEMENT OF ALLEGATIONS.

EXT. P2: COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE REVENUE AUTHORITIES.

EXT. P3: COPY OF THE PROCEEDINGS OF THE BOARD OF REVENUE(LR), THIRUVANANTHAPURAM DATED 17.04.1998.

EXT. P4: COPY OF THE APPEAL SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY TO GOVT.

EXT. P5: COPY OF THE ORDER DATED 3.11.99 BY THE REVENUE © DEPARTMENT.

EXT. P6: COPY OF THE REPORT OF THE TAHSILDAR DATED.

EXT. P7: COPY OF THE COMMUNICATION DATED 7.7.1999 TO THE DISTRICT COLLECTOR.

EXT. P8: COPY OF THE MEDICAL REPORT OF THE PETITIONER'S WIFE DATED.

/TRUE COPY/

P.A. TO JUDGE

JP

T.R.RAMACHANDRAN NAIR, J.

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O.P. No.1845 of 2002-T.

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Dated this the 26th day of July, 2007.

J U D G M E N T

The petitioner is challenging Exts.P3 and P5 orders by which the punishment of barring one annual increment for one year with cumulative effect has become final. The petitioner was working as Revenue Inspector from 1.6.1988 to 26.4.1990. While so, he was issued with Ext.P1 memo of charges along with the statement of allegations. The main charges are relating to the inordinate delay on his part in submitting valuation report and the consequential delay arose in assessment of building tax. The petitioner denied his involvement by submitting Ext.P2 explanation. Thereafter the Board of Revenue as per Ext.P3 proceedings imposed the punishment in question. The findings rendered in Ext.P3 are that, "the enquiry reports were actually submitted only on 10.2.1992. In this connection it may be noted that Sri.A.Rajan held the office for nearly 23 months from 1.6.1988 to 26.4.1990. So also, it is admitted by him that he had not filed the requisite reports in time and that it was delayed upto 10.2.1992, when the basis of assessment was changed from capital value to plinth area." The petitioner challenged the same by filing appeal evidenced as Ext.P4. In Ext.P4 the petitioner contended that at the time when he was working as Revenue Inspector hundreds of files

were being sent for the reports of the Revenue Inspector and actually he had to handle nearly six hundred files at a time. His contention appears to be that there is no wilful delay on his part since strenuous efforts were required. Ext.P5 is the order issued by the Government in the appeal. While considering the appeal filed by the petitioner the government observed that, the contention of the petitioner that he was overloaded with the work and that caused the delay cannot be accepted as the assessment of building tax is also equally important. It is his duty to assess the tax within the time prescribed. The petitioner challenges Exts.P3 and P5 in this writ petition.

2. The learned counsel for the petitioner invited my attention to Exts.P6 and P7 and contended for the position that the explanation of the petitioner is fortified by official records. Ext.P6 is the report sent by the Tahsildar, Ponnani to the District Collector, Malappuram dated 25.2.1995 with reference to the Local Audit of Taluk Office, Ponnani for the period from 1.11.1991 to 31.10.1993. The relevant paragraph is para.A-1 of Part-II. The objection is related to loss of revenue of Rs.85,260.00 to Government due to abnormal delay in assessing building tax in file No.A7.4479/87, A7.991/89 and A7.822/92 The Tahsildar has reported that, “there is no purposeful delay on the part of the Revenue Inspectors who were the inspecting authorities of the building for assessment of the tax. Special staff was posted for the inspection of buildings upto 1975 and those posts were abolished and this item

of work was entrusted with Firka Revenue Inspectors. The workload of the Revenue Inspectors are very heavy and naturally there was delay in submission of reports on the part of Revenue Inspectors. To avoid such delay in submission of reports in building tax assessment. Files, this item of work was distributed among Revenue Inspectors and Deputy Tahsildars at this office level. As a result of that reports from the Deputy Tahsildars were required in the above files and assessment procedure completed." Ext.P7 is the report forwarded by the Senior Audit Officer to the Commissioner of Land Revenue, dated 7.7.1999. With reference to the above paragraph, the remark is that, 'not pursued further in view of your reply' with copy to the Tahsildar, Ponnani and District Collector, Malappuram. The learned counsel for the petitioner therefore contended that going by Exts.P5 and P7 it will be evident that there was no unreasonable or unexplained delay on the part of the petitioner and as the matter was not pursued going by the explanation of the Tahsildar read with Ext.P7, there is no basis in imposing the punishment on the petitioner.

3. Exts.P6 and P7 were admittedly not produced before the Government while hearing the appeal. The above are relevant materials evidently while considering the case of the petitioner in the appeal Ext.P4, contended the counsel. I find force in the above submission. Therefore, the petitioner will be given a further opportunity to produce Exts.P6 and P7 for

supporting his contentions raised in the appeal Ext.P4. To enable the petitioner to do so, I quash Ext.P5 as far as it relates to the rejection of the appeal filed by the petitioner. Therefore, there will be a direction to the first respondent to hear and dispose of Ext.P4 afresh after considering the effect of Exts.P6 and P7 also. The petitioner will be afforded an opportunity of personal hearing. The petitioner is directed to produce Exts.P6 and P7 along with a representation within a period of one month from today before the Government. On production of the same the appeal will be reheard and disposed of within a period of three months thereafter.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-